

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
 )  
 WORLDCOM, INC. )  
 )  
 For Grant of Authority )  
 Necessary for Restructuring and )  
 Certain Related Intra-Corporate )  
 Transactions Undertaken to )  
 Consummate WorldCom's Plan of )  
 Reorganization Under Chapter 11 )  
 Of the Federal Bankruptcy Code. )

DOCKET NO. 03-0262

DECISION AND ORDER NO. 20627

RECEIVED  
2003 NOV 10 A 10: 26  
DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF PA.

Filed Nov. 7, 2003  
At 9:00 o'clock A.M.

Karen Higost.  
Chief Clerk of the Commission

ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition )	
WORLDCom, INC. )	Docket No. 03-0262
For Grant of Authority )	Decision and Order No. 20627
Necessary for Restructuring and )	
Certain Related Intra-Corporate )	
Transactions Undertaken to )	
Consummate WorldCom's Plan of )	
Reorganization Under Chapter 11 )	
Of the Federal Bankruptcy Code. )	
<hr/>	

DECISION AND ORDER

I.

Introduction

WORLDCom, INC. ("WorldCom"), on behalf of its Hawaii operating subsidiaries, Intermedia Communications, Inc. ("Intermedia")<sup>1</sup>, MCI Metro Access Transmission Services, Inc. ("MCI Metro")<sup>2</sup>, MCI WorldCom Communications, Inc. ("MCI WorldCom

---

<sup>1</sup>The commission granted Intermedia a certificate of authority ("COA") to operate as a reseller of intrastate telecommunications services in the State of Hawaii ("State"). *In re Intermedia Communications, Inc.* Docket No. 96-0387, Decision and Order No. 15163 (November 13, 1996). See also, *In re WorldCom, Inc. and Intermedia Communications, Inc.*, Docket No. 00-0399, Decision and Order No. 18344 (January 30, 2001) (approval of transfer of control of Intermedia to WorldCom).

<sup>2</sup>The commission granted MCI Metro a COA to operate as a provider of intrastate telecommunications services in the State. *In re MCI Metro Access Transmission Services, Inc.*, Docket No. 97-0190, Decision and Order No. 15898 (September 10, 1997).

Communications")<sup>3</sup>, MCI WorldCom Network Services, Inc. ("MCI WorldCom Network")<sup>4</sup> and TTI National, Inc. ("TTI")<sup>5</sup> (collectively, referred to as "Petitioners") request an exemption from the review requirements of Hawaii Revised Statutes ("HRS") § 269-19 and Hawaii Administrative Rules ("HAR") § 6-61-105, as otherwise may be applicable, in connection with the proposed restructuring and certain related intra-corporate transactions undertaken to consummate WorldCom's Plan of Reorganization under Chapter 11 of the Federal Bankruptcy Code (collectively, "Plan of Reorganization").<sup>6</sup> In the alternative, Petitioners request that the

---

<sup>3</sup>The commission granted MCI WorldCom Communications (fka, MFS Intelnet of Hawaii, Inc. and WorldCom Technologies, Inc.) a COA to operate as a reseller of intrastate telecommunications services in the State. *In re MFS Intelnet of Hawaii, Inc.*, Docket No. 95-0030, Decision and Order No. 14841 (August 5, 1996). See also, *In re WorldCom, Inc. et al.*, Docket No. 97-0206, Decision and Order No. 16006 (October 9, 1997); *In re WorldCom, Inc. et al.*, Docket No. 97-0377, Decision and Order No. 16282 (April 14, 1998) (approval of transfer of control to WorldCom Technologies, Inc.); *In re MCI WorldCom, Inc. et al.*, Docket No. 99-0164, Decision and Order No. 17103 (August 5, 1999) (approval of reorganization where, among other things, World Technologies, Inc. changed its name to MCI WorldCom Communications, Inc.)

<sup>4</sup>The commission granted MCI WorldComNetwork (fka, MCI Telecommunications Corporation) a certificate of public convenience and necessity ("CPCN") to provide intrastate telecommunications services in the State. *In re MCI Telecommunications Corporation*, Docket No. 94-0231, Decision and Order No. 13780 (February 22, 1995). *In re MCI Telecommunications Corporation*, Docket No. 97-0412, Decision and Order No. 16147 (January 5, 1998) (removing restrictions to CPCN). See also, *MCI WorldCom, Inc.*, Docket No. 99-0164, Decision and Order No. 17103 (August 5, 1999).

<sup>5</sup>The commission granted TTI a COA to provide intrastate telecommunications services as a reseller in the State. *In re TTI National, Inc.*, Docket No. 99-0077, Decision and Order No. 17035 (June 15, 1999).

<sup>6</sup>Petitioners also request that the filing requirements of HAR § 6-61-105 be waived to the extent that the Petitioner does not satisfy those requirements.

commission grant such authority as may be necessary or required in connection with the Plan of Reorganization on an expedited basis.

Petitioners served copies of the application on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). On October 17, 2003, the Consumer Advocate indicates, by its statement of position, that it does not object to the approval of the proposed restructuring and related intra-corporate financial transactions, described above and in more detail below.

## II.

### Background

#### A.

##### Description of WorldCom and its Services

WorldCom is a Georgia corporation with its principal place of business in Ashburn, Virginia. WorldCom, as the parent company to various operating subsidiaries, offers no telecommunication services directly to the public and holds no COAs or CPCNs issued by the commission. However, through various operating subsidiaries including the Hawaii operating subsidiaries, noted above, WorldCom provides international telecommunications services and is authorized to offer domestic interstate, intrastate and local services in each of the 50 states and the District of Columbia. WorldCom's telecommunications offerings are comprehensive in scale and scope and include virtually every type of voice and data service.

B.

Plan of Reorganization

WorldCom and its subsidiaries filed for reorganization under Chapter 11 of the United States Bankruptcy Code ("Bankruptcy Code") in the Bankruptcy Court in the Southern District of New York ("Bankruptcy Court") on July 21, 2002 and November 8, 2002.<sup>7</sup> Under the Plan of Reorganization submitted to the Bankruptcy Court for confirmation, WorldCom will be reincorporated as a Delaware corporation and renamed MCI, Inc. ("New MCI"). WorldCom's existing stock and debt will also be cancelled and new common stock and/or notes will be distributed to holders of certain claims against the bankruptcy estate. Specifically, New MCI will be authorized to issue up to 2 billion shares of new common stock, and between \$4.5 and \$5.5 billion of new notes to holders of allowed claims.

As a critical part of the reorganization, many of WorldCom's existing operating subsidiaries and holding company subsidiaries will be either merged or dissolved to ensure that New MCI operates under a more rationally organized corporate legal structure. Petitioners represent that this streamlining is intended to achieve certain operating efficiencies, cost savings, and administrative benefits.

In particular, the Plan of Reorganization appears to, at the very minimum, directly or indirectly affect all of WorldCom's

---

<sup>7</sup>*In re WorldCom, Inc.*, Case No. 02-13533 (AJG) (S.D.N.Y.). Petitioners state that confirmation hearings for the Plan of Reorganization commenced in the Bankruptcy Court on September 8, 2003. Due to substantial support by their creditors, Petitioners expect the confirmation proceeding to be concluded soon.

certificated Hawaii operating subsidiaries. First, it will consolidate the operations of numerous competitive local exchange carriers into MCImetro. Second, Intermedia, a wholly-owned subsidiary of WorldCom, will be merged into a newly-formed, wholly-owned subsidiary of New MCI. Finally, Petitioners represent to the Consumer Advocate that WorldCom's remaining certificated Hawaii subsidiaries (MCI WorldCom Communications, MCI WorldCom Network, and TTI) will continue to exist.<sup>8</sup> Petitioners acknowledge that the reincorporation, described above, may be construed as an indirect transfer of control because such reincorporation will result in a change in the legal entity holding the stock of all of WorldCom's Hawaii public utility subsidiaries.

Nonetheless, Petitioners emphasize that its emergence from bankruptcy envisions no change in state jurisdiction over any of its regulated operations. Petitioners also confirm that the reorganization of the WorldCom holding company, the Intermedia merger and the internal consolidation of the operations of certain of WorldCom's existing subsidiaries will have no effect on the services or the rates, terms and conditions of those services that are currently being provided to Hawaii customers. Petitioners assert that the successful implementation of its Plan of Reorganization will benefit New MCI's residential and business customers, and that such transaction will be seamless and transparent to WorldCom and the customers of its operating subsidiaries. Without the reorganization, WorldCom alludes that it may be forced to liquidate its assets, and that such liquidation

---

<sup>8</sup>Consumer Advocate's Statement of Position at 2.

would disrupt customers, cause 50,000 jobs to be lost nationwide, adversely affect creditors, and may significantly impact prices and competition.

C.

Consumer Advocate's Position

The Consumer Advocate states that it does not object to Petitioners' request for commission approval of the proposed reorganization and related transactions described in this petition. It recognizes "the entry of many telecommunications service providers in the Hawaii market", and that the market place will "serve to mitigate any traditional utility regulatory concerns regarding the proposed reorganization. Therefore, if there are any adverse consequences from the proposed reorganization, consumers in Hawaii will have the option of selecting another service provider."

III.

Discussion

HRS § 269-19 provides that no public utility corporation shall, among other things, directly or indirectly merge or consolidate with any other public utility corporation without first having secured from the commission an order authorizing it to do so. As represented by Petitioners and further described above, the Plan of Reorganization will include the consolidation or merger of several of WorldCom's existing Hawaii operating subsidiaries and related transactions resulting in an indirect transfer of control of the remaining Hawaii subsidiaries. In addition, HRS § 269-7(a)

authorizes the commission to examine the condition of each public utility, its financial transactions, and "all matters of every nature affecting the relations and transactions between it and the public or persons or corporations." Thus, the Plan of Reorganization clearly falls under the purview of HRS §§ 269-7(a) and 269-19.<sup>9</sup>

Nonetheless, HRS § 269-16.9(a) provides, in relevant part, that the commission, on its own motion or upon the application of any person, and upon notice and hearing, may exempt a telecommunications provider from any or all of the provisions of chapter 269, HRS (except the provision of HRS § 269-34), upon a determination that the exemption is in the public interest.

HRS § 269-16.9(e) also permits us to waive regulatory requirements applicable to telecommunications providers if we determine that competition will serve the same purpose as public interest regulation. Specifically, HAR § 6-80-135 permits us to waive the applicability of any of the provisions of HRS

---

<sup>9</sup>Notwithstanding the filing of the instant petition, Petitioners argue that the commission is preempted to review their Plan of Reorganization due to the Bankruptcy Code. We disagree with this assertion. Several prior commission decisions and orders have reviewed and approved the confirmation or consummation of a Chapter 11 re-emergence or reorganization plans submitted by other telecommunications carriers. *In re Teligent Services, Inc. et al.*, Docket No. 01-0392, Decision and Order No. 19100 (December 10, 2001); *In re Winstar Wireless, Inc., et al.*, Docket No. 02-0017, Decision and Order No. 19290 (April 9, 2002); *In re Startec Global Communications Corporation et al.*, Docket No. 02-0381, Decision and Order No. 19827 (December 16, 2002); *In re Teleglobe USA, Inc. et al.*, Docket No. 03-0020, Decision and Order No. 20116 (April 8, 2003); and *In re Direct Telephone Company, Inc., et al.*, Docket No. 03-0240, Interim Decision and Order No. 20410 (August 29, 2003).



chapter 269 or any rule, upon a determination that a waiver is in the public interest.

Upon review of the record in this docket, particularly Petitioner's representations, we find that much of the telecommunication services currently provided by Petitioners are competitive, and that the Plan of Reorganization is consistent with the public interest, and that competition, in this instance, will serve the same purpose as public interest regulation. We also find that the Plan of Reorganization would: (1) likely have a *de minimis* impact on Petitioners' Hawaii operations; (2) benefit its certificated Hawaii operating subsidiaries by making greater financial and technical resources available to them; (3) better position these subsidiaries in the emerging competitive telecommunications market; (4) be consistent with the State policy of promoting competition in the intrastate telecommunications industry; (5) cause no managerial or operational change in the provision of telecommunications services in the State by these subsidiaries; and (6) not result in any interruption or change in telecommunications services or any change in rates, terms and conditions of these services in Hawaii.

Based on the foregoing, the commission, on its own motion, will waive the requirements of HRS §§ 269-19 and 269-7(a), to the extent applicable, pursuant to HRS § 269-16.9(e) and HAR

§ 6-80-135.<sup>10</sup> However, to ensure that the record is clear as to the new legal ownership and corporate structure of the certificated Hawaii operating subsidiaries, we will require Petitioners to submit to the commission and the Consumer Advocate, subsequent to the emergence from bankruptcy, a copy of the following documents: (1) the Bankruptcy Court's order confirming or approving the Plan of Reorganization; and (2) a statement or chart describing the post-emergence legal ownership and corporate structure resulting from the approved Plan of Reorganization.

Similarly, for the same reasons noted above and for purposes of filing requirements, we also find that it is in the public interest to waive the applicability of HAR § 6-61-105 in this petition. Accordingly, we conclude that the requirements of HAR § 6-61-105 that are not satisfied by the information provided in Petitioners' petition should be waived.<sup>11</sup>

#### IV.

##### THE COMMISSION ORDERS:

1. The requirements of HRS §§ 269-19 and 269-7(a), to the extent applicable, are waived, with respect to Petitioners' Plan of Reorganization, as described in the instant application.

---

<sup>10</sup>At the same time, the commission will continue to examine a utility's application on a case-by-case basis to determine whether the applicable requirements of HRS §§ 269-19 and 269-7(a), or any other related provision governing utility transactions, should be waived. The commission's waiver in this decision and order shall not be construed by any utility as a basis for not filing an application involving similar transactions or circumstances.


<sup>11</sup>We note that the petition failed to comply with the requirements set forth in HAR § 6-61-105 by not submitting, among other things, a copy of the applicable financial statements, etc.

2. To the extent that the petition does not contain all of the information required under HAR § 6-61-105, the applicability of this section is waived.

3. Subsequent to the emergence from bankruptcy, Petitioner shall submit to the commission and the Consumer Advocate a copy of the following documents: (a) the Bankruptcy Court's order conforming or approving the Plan of Reorganization; and (b) a statement or chart describing the post-emergence legal ownership and corporate structure resulting from the approved Plan of Reorganization. Failure to promptly comply with these requirements may constitute cause to void this decision and order, and may result in further regulatory action, as authorized by law.

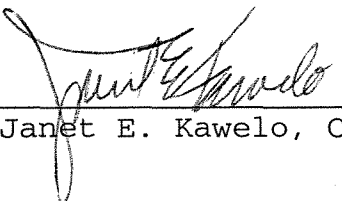
DONE at Honolulu, Hawaii this 7th day of November,  
2003.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

By   
Janet E. Kawelo, Commissioner

  
Kris N. Nakagawa  
Commission Counsel

03-0262.eh

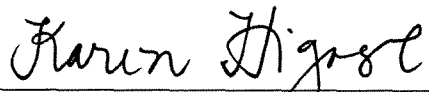
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20627 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

JUDY A. TANAKA, ESQ.  
PAUL JOHNSON PARK & NILES  
Suite 1300, ASB Tower  
1001 Bishop Street  
Honolulu, HI 96813

RICHARD B. SEVERY  
ROBERT MUNOZ  
MCI  
201 Spear Street  
San Francisco, CA 94105

  
\_\_\_\_\_  
Karen Higashi

DATED: November 7, 2003